

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**U.S. Patent No.: 5,776,563**

Applicant: Steven N. BUHL *et al.* Confirmation No.: 2738

Serial No.: 08/466,155 Art Unit No.: 1773

Filed: June 6, 1995 Examiner: Dhirajlal S. Nakarani

**FOR: DRIED CHEMICAL COMPOSITIONS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUBMISSION UNDER 37 C.F.R. § 1.28(c)**

Sir:

This is a submission under 37 C.F.R. § 1.28(c) to correct an inadvertent error in claiming small entity status and to pay the deficiency that may have resulted from mistakenly paid small entity fees.

Patentee is now and has always itself been a small entity with less than 500 employees. A license to the above-captioned application and/or the subsequently issued patent was granted to Pharmacia, Inc., on October 1, 1994, to Cepheid<sup>1</sup> on September 30, 2005, and to bioMerieux SA on March 20, 2006. Patentee's agent, through error and without deceptive intent, continued to pay small entity fees thereafter. Accordingly, in compliance with the requirements of § 1.28,

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<sup>1</sup> Cepheid appears to have grown to over 500 employees sometime during 2008.

patentee now submits a good faith payment of the deficiency owed and requests the Office excuse the error.

Please charge **\$6,122** to our **Deposit Account No. 50-1283** for the total deficiency. As required under 37 CFR § 1.28 (c)(2)(ii), an itemization with respect to each fee that was paid is attached. If the Office determines that the calculation of the deficiency is in error, or if any other fee is required for entry, consideration, or acceptance of this paper, patentee requests that the Director debit the appropriate fee(s) from our **Deposit Account No. 50-1283**.

Dated: February 9, 2011

**CUSTOMER NO. 58249**

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Respectfully submitted,  
**COOLEY LLP**

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**ITEMIZATION UNDER § 1.28(c)(2)(ii)**

<b>DATE</b>	<b>DESCRIPTION OF FEE</b>	<b>FEE PAID</b>	<b>FEE CODE<sup>2</sup></b>	<b>CURRENT FEE<sup>3</sup></b>	<b>DEFICIENCY</b>
06-06-95	Excess Total Claims (12)	\$132	1202	\$624	\$492
06-06-95	Basic Filing Fee	\$365	1001	\$850	\$485
07-25-96	1 mos. EOT	\$55	1251	\$130	\$75
02-28-97	IDS under 1.17(p)	\$230	1806	\$180	NA
02-28-97	2 mos. EOT	\$195	1252	\$490	\$295
04-27-98	Issue Fee	\$660	1501	\$1510	\$850
04-27-98	Soft Copies (10)	\$30	8001	\$30	0
01-04-02	Maintenance Fee, 4 <sup>th</sup> yr	\$440	1551	\$980	\$540
12-30-05	Maintenance Fee, 8 <sup>th</sup> yr	\$1150	1552	\$2480	\$1330
01-07-10	Maintenance Fee, 12 <sup>th</sup> yr	\$2055	1553	\$4110	\$2055
<b>TOTAL</b>					<b>\$6122</b>

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<sup>2</sup> Current large entity fee code.

<sup>3</sup> Current large entity fee (FY 2011 fee schedule, as revised 1 January 2011).